

UNITED STATES DISTRICT COURT  
SOUTHERN DISTRICT OF NEW YORK

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TIBOR KISS,	:	
	:	
Plaintiff,	:	17 Civ. 10029 (LGS)
	:	
-against-	:	<u>ORDER</u>
	:	
CLINTON GREEN NORTH, LLC et al.,	:	
Defendants.	:	
-----	:	
	X	

LORNA G. SCHOFIELD, District Judge:

WHEREAS, Plaintiff Tibor Kiss filed four motions *in limine* in anticipation of trial. It is hereby ORDERED that:

1. Plaintiff's motion to exclude any evidence relating to Plaintiff's immigration status (Dkt. No. 216) is GRANTED IN PART and DENIED IN PART. Defendants may elicit Plaintiff's undocumented status for the limited purpose of considering it as one possible factor in the determination of lost future wages. *See Balbuena v. IDR Realty LLC*, 845 N.E.2d 1246, 1259 (2006). To minimize possible unfair prejudice against Plaintiff, the parties shall agree on the terms of a stipulation eliciting the relevant fact(s) and stating that the evidence is offered solely as one possible factor in the determination of lost future wages. The stipulated facts may be used in the examination of the parties' damages experts on the issue of lost future wages but may not be used to question any other witness absent the Court's permission.<sup>1</sup>

2. Plaintiff's motion to preclude Bernard Lorenz from testifying at trial (Dkt. No. 219) is DENIED. Defendant has complied in substance with the requirements of providing an

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<sup>1</sup> *See generally Angamarca v. New York City P'ship Hous. Dev. Fund, Inc.*, 927 N.Y.S.2d 2, 5 (2011) (upholding trial court's refusal to allow evidence of plaintiff's immigration status on the issue of future wages where plaintiff suffered serious injuries to prevent him from working and defendant proffered no evidence that deportation was anything but speculative, or that plaintiff's future medical expense would have been lower than those awarded).

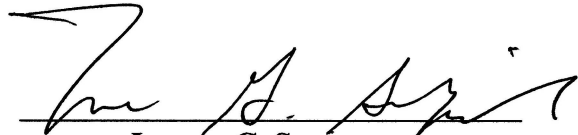
expert report compliant with Federal Rule of Civil Procedure 26(a)(2). (Dkt. Nos. 193-3, 213-3, and 278-1)

3. Plaintiff's motion to preclude Dr. Douglas Cohen and Ricardo Estrada from testifying at trial (Dkt. No. 222) is DENIED. Although Defendants initially failed to provide a list of prior testimony for Dr. Cohen and Mr. Estrada, Defendants did so for Dr. Cohen when they were alerted to the omission. (Dkt. No. 250-1) Plaintiff has not been prejudiced by any delay. Mr. Estrada indicated on his curriculum vitae that he "provide[s] vocational expert testimony as needed." (Dkt. No. 223-2) To the extent Mr. Estrada has testified as an expert witness in the last four years, a list of his prior testimony shall be produced no later than **September 27, 2021**.

4. Plaintiff's motion to limit the testimony of Dr. Klein to his reports and compel Dr. Klein to provide a complete testimony list (Dkt. No. 225) is DENIED. Dr. Klein's addendum report was filed on October 23, 2020, and contained the information that Plaintiff asserts was omitted from his initial report. Plaintiff was not prejudiced by any delay.

The Clerk of Court may place on the docket the first sentence of each numbered paragraph above and is respectfully directed to close the motions at Docket Nos. 216, 219, 222 and 225.

Dated: September 21, 2021  
New York, New York

  
**LORNA G. SCHOFIELD**  
**UNITED STATES DISTRICT JUDGE**